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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,290	01/13/2004	Ilonka Harezi	P00783-US-01 (20476.0001)	4481
22446	7590	03/05/2008	EXAMINER	
ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			ROANE, AARON F	
			ART UNIT	PAPER NUMBER
			3739	
			MAIL DATE	DELIVERY MODE
			03/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-10, 13, 15 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Feldman et al. (USPN 5,896,004).

Regarding claim 1, Feldman et al. disclose a bulb comprising a shell (D) enclosing a hollow interior; a tube (Lamp A) having a first open end (22) and a second open end (24) and a continuous pathway communicating between said first open end and said second open end, said tube intersecting with said shell such that said first open end and said second open end reside outside said shell and a portion of said tube between said first open end and said second open end resides within said shell, each said intersection of said tube and said shell being accomplished such that any contents of said hollow interior of said shell are sealed within said shell and any contents of said hollow interior of said shell are segregated from any contents of said portion of said tube residing within said shell;

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and at least one electrode (a first of 36) having at least one end terminating inside said shell, see col. 3, line 27 through col. 5, line 12 and figures 1-2.

Regarding claims 6-10, Feldman et al. disclose the claimed invention, see col. 3, lines 27-57.

Regarding claim 13, Feldman et al. disclose the portion of said tube residing within said shell encloses a flowing substance, see col. 3, line 27 through col. 5, line 12 and figures 1-2.

Regarding claims 15, 17 and 18, Feldman et al. disclose the claimed invention, see col. 3, line 27 through col. 5, line 12 and figures 1-2.

Regarding claim 19, Feldman et al. further disclose a source of electromagnetic waves (a second of 36), said source of electromagnetic waves positioned such that electromagnetic waves emanating from said source of electromagnetic waves pass through said shell, see col. 3, line 27 through col. 5, line 12 and figures 1-2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al. (USPN 5,896,004) as applied to claim 1 above, and further in view of Oga et al. (USPN 5,824,130).

Regarding claims 2, 4 and 5, Feldman et al. disclose the claimed invention except for the portion of said tube residing within said shell is configured as a spiral comprising a plurality of concentric turns, the spiral comprises three or more concentric turns and/or the spiral comprises a prime number of concentric turns. Oga et al. disclose a bulb comprising a shell (100) enclosing a hollow interior and an inner tube (1) inside the hollow interior and teach providing the tube with a spiral shape having three turns in order to enhance filling and light generation, see col. 1, lines 46-53, col.5-7 and figures 1-7. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Feldman et al., as taught by Oga et al., to provide the tube with a spiral shape having three turns in order to enhance filling and light generation.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al. (USPN 5,896,004) in view of Oga et al. (USPN 5,824,130) as applied to claim 2 above, and further in view of Soules et al. (USPN 5,680,005).

Regarding claim 3, Feldman et al. in view of Oga et al. disclose the claimed invention except for each successive concentric turn of the plurality of concentric turns decreases in diameter. Soules et al. disclose a bulb (A) having a tube (B) bulb with a gas filled and teach providing the with a helix/spiral configuration with decreasing diameter “in order to maximize the length of discharge tubing for a given height,” see abstract and figures 1 and 2. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Feldman et al. in view of Oga et al., as taught by Soules, to provide the bulb with tube having a helix/spiral configuration with decreasing diameter “in order to maximize the length of discharge tubing for a given height.”

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al. (USPN 5,896,004) as applied to claim 7 above, and further in view of Okubo (USPN 5,617,659).

Regarding claims 11 and 12, Feldman et al. disclose the claimed invention except for the noble gas comprises neon and/or helium. Okubo discloses a discharge bulb 18 and teaches the alternate/equivalence of neon, helium and argon as a discharge gas, see col. 6,

lines 54-60. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Feldman et al., as taught by Okubo, to use neon and/or helium inside the discharge tube as an alternative to argon.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al. (USPN 5,896,004) as applied to claim 13 above, and further in view of Lapatovich et al. (USPN 6,696,788).

Regarding claim 14, Feldman et al. disclose the claimed invention except for the hollow interior of said shell outside said tube contains a gaseous matter, and wherein said flowing substance does not intermingle with said gaseous matter. Lapatovich et al. disclose a double jacket bulb (10) having an exterior shell (16) and an interior discharge tube/jacket (12) and electrodes 30 and 32 and teach providing a gas (22) in the outer shell (16) such that when activated by heat and radiation from inner tube, when the lamp is operating, converts radiation, from one wavelength to another, see col. 2, line 60 through col. 3, line 49 and figures 1-7. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Feldman et al., as taught by Lapatovich et al., to provide a gas in the outer shell such that when activated by heat and radiation from inner tube, when the lamp is operating, converts radiation, from one wavelength to another.

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Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al. (USPN 5,896,004).

Regarding claim 16, Feldman et al. disclose the claimed invention except for the ozone.

Applicant discloses various gaseous substances within the tube, see claims 8-12.

Additionally, Applicant discloses on page 15, lines 3-5 “the material flowing through vortex tube 23 comprises ozone, but the material does not necessarily have to be ozone or a gas.” Therefore, by Applicant’s own admission, ozone is not seen as distinct over any of the other claimed gases.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al. (USPN 5,896,004) in view of Imamura et al. (USPN 4,603,277).

Regarding claim 27, Feldman et al. disclose a bulb comprising a shell (D) enclosing a hollow interior; a tube (Lamp A) having a first open end (22) and a second open end (24) and a continuous pathway communicating between said first open end and said second open end, said tube intersecting with said shell such that said first open end and said second open end reside outside said shell and a portion of said tube between said first open end and said second open end resides within said shell, each said intersection of said tube and said shell being accomplished such that any contents of said hollow interior of said shell are sealed within said shell and any contents of said hollow interior of said shell are segregated from any contents of said portion of said tube residing within said shell;

and at least one electrode (a first of 36) having at least one end terminating inside said shell, see col. 3, line 27 through col. 5, line 12 and figures 1-2. Feldman et al. disclose the claimed invention except for the plurality of tubes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have more than one tube, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. As an example, Imamura et al. discloses a bulb apparatus comprising an outer shell (outer bulb 30) and teach providing the bulb apparatus with a plurality of inner discharge tubes (the two tubes numbered 1, in figures 1 and 2) in order to provide high density light, see col. 1 and 2 and figures 1-7. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Feldman et al., as is well known in the art and taught by Imamura et al., to provide the bulb apparatus with a plurality of inner discharge tubes in order to provide high density light.

Allowable Subject Matter

Claims 20 and 24 have objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, see sections II and III on pages 13-15 of the response, filed 9/17/2007, with respect to objections to the drawings have been fully considered and are persuasive. The objections to the drawings have been withdrawn.

Applicant's arguments with respect to the rejections of claims 1-19 and 27, filed 9/17/2007 have been fully considered but they are not persuasive. All of the arguments/remarks boil down to Applicant's assertion, see page 16, lines 5-9, that Feldman et al. fail to disclose "a tube having a first open end and a second open end and a continuous pathway communicating between said first open end and said second open end, said tube intersecting with said shell such that said first open end and said second open end reside outside said shell." The examiner strongly disagrees. Applicant may interpret the "continuous pathway communicating between" the first open end and the second open end narrowly as a "fluid" pathway allowing fluid (a gas in the case) to continuously flow into the first open end and out of the second open end. Although operational characteristics of an apparatus may be apparent from the specification, we will not read such characteristics into the claims when they cannot be fairly connected to the structure recited in the claims. See *In re Self*, 671 F.2d 1344, 1348, 213 USPQ 1, 5 (CCPA 1982).

Feldman et al. clearly do disclose the presently claimed invention including a tube having "a first open end and a second open end and a continuous pathway communicating between said first open end and said second open end," as seen in the drawings 1, 2 and 4. It should be noted figures 1-4 show a tube with first and second open ends. The continuous pathway is simply and

electrical pathway which is provided and must be provided in order to conduct current and enable the device to ionize the gas.

Accordingly, the rejections are affirmed **and this action is made FINAL.**

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON ROANE whose telephone number is (571)272-4771. The examiner can normally be reached on Monday-Thursday 7AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Aaron Roane/
Examiner, Art Unit 3739

//Henry M. Johnson, III//
Primary Examiner, Art Unit 3739